

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:
PATRICIA A. MANNING,

Debtor(s)

Case No: B-1180847 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtor’s plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on May 26, 2011, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On May 26, 2011, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The plan filed by the Debtor proposes a monthly payment of \$1,445.00 for a period of at least 36 months. Unsecured creditors will not receive any dividend.
5. Beneficial Mortgage (“Beneficial”) has filed a claim in the amount of \$88,032.39 secured by the Debtor’s real property at 728 Berwyn Avenue, Durham, NC (“the real property”). The claim asserts ongoing monthly mortgage payments of \$953.71 and an arrearage through August of 2011 in the amount of \$20,275.18. The Debtor’s plan proposes to pay the claim of Beneficial as a long-term debt through the Trustee’s office and any arrearage as a secured claim.
6. Beneficial also holds a claim secured by a second deed of trust on the real property that is to be paid through the plan in monthly installments of \$177.00.
7. The Trustee objects to confirmation of the plan in that the Debtor’s proposed plan payments are not sufficient to satisfy the long-term debts of Beneficial, the arrearage claim of Beneficial, and all other secured and priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtor's plan payments be increased to \$1,578.00 per month for 60 months; or
3. For such other and further relief as the Court may deem just or proper.

This the 25th day of July, 2011.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Patricia a. Manning, 728 Berwyn Ave., Durham, NC 27704, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 25th day of July, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.

Attorney for the Standing Trustee